

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 11,702
)	
Appeal of)	

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying Medicaid coverage for an anorectic (appetite depressant) drug prescribed to the petitioner for the control of her diabetes. The issue is whether coverage for this drug is precluded by the Medicaid regulations.

FINDINGS OF FACT

The petitioner is a recipient of Medicaid. She has a long-standing problem with diabetes and obesity. In November, 1992, her doctor prescribed the drug fenfluramine to help control her blood sugar. In a note dated November 23, 1992, the doctor explained the prescription of this drug as follows:

I think it would be a good idea for [petitioner] to have access to fenfluramine for at least three months to see if that medicine would help her with her blood sugar control. Right now, she is on the usual therapy and her blood sugars have remained in the 300-400 range. Because of her syndrome x, adding insulin may just increase her difficulties in terms of hypertension, coronary artery disease, and weight gain. Thus, rather than leaving an open-ended prescription, I believe if we try fenfluramine for three months we could then tell if this medicine would be efficacious for her and prevent future side effects of diabetes in terms of renal insufficiency, heart attack and limb loss, which would certainly be more expensive than a few months of drug in the short-term. The fenfluramine would be one tablet three times a day so that would be a 90-day course without refill unless we find it to be efficacious.

At the time, and continuing through the present, the petitioner has been a client of the Department's Reach Up program. Although Medicaid coverage for this drug was denied, based on the above note the Department has purchased fenfluramine for the petitioner as needed (at a cost of about \$30.00 a month) through Reach Up funds. With the help and advice of her Reach Up counselor, however, the petitioner appealed the denial of Medicaid coverage.

In a note dated July 13, 1993, the petitioner's doctor indicated that the petitioner's blood sugar remains high, and that fenfluramine has continued to be prescribed for the petitioner to "help control hyperinsulism and insulin dependence, as well as sweet craving".

Although the treatment of the petitioner's condition appears to be tenuous and complex, there is no question that fenfluramine is an anorectic, or appetite depressant, used primarily to control food intake.

ORDER

The Department's decision is affirmed.

REASONS

Medicaid Manual (MM) § M811.2 includes the following blunt provision: "No payment will be made for any anorectic (appetite depressant)." Unlike other provisions in the Medicaid regulations, there appear to be no exceptions to the

above statement of non-coverage.

Fortunately for the petitioner, it appears that Reach Up will continue to cover the petitioner's purchase of fenfluramine for the foreseeable future. The petitioner and her Reach Up counselor (who impressed the hearing officer with his diligence and concern on behalf of his client) were also advised that if the petitioner was unable to purchase the drug either on her own or through Reach Up she would probably be eligible for general assistance (GA), and should promptly apply for coverage under that program should the need arise.

Inasmuch, however, as the Department's decision denying Medicaid coverage for this drug appears to be in accord with the regulations, it must be affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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